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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 IN RE: CV SCIENCES, INC. SECURITIES
11 LITIGATION

12 Case No. 2:18-cv-01602-JAD-PAL

13 **STIPULATION AND [PROPOSED]**
14 **ORDER VACATING SCHEDULING**
15 **ORDER**

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1 THE PARTIES HEREBY STIPULATE TO THE FOLLOWING FACTS:

2 On November 28, 2018, the Court entered the Stipulation and Order Extending Time to
 3 Respond to Complaint (Dkt. No. 25), pursuant to which the Court ordered that Lead Plaintiff
 4 Richard Ina, Trustee for the Ina Family Trust (“Lead Plaintiff”) file his consolidated amended
 5 complaint by January 4, 2019; that Defendants CV Sciences, Inc., Michael Mona, Jr., Joseph D.
 6 Dowling, and Michael Mona, III (“Defendants”) file their motion to dismiss by March 5, 2019; that
 7 Lead Plaintiff file his opposition to Defendants’ motion to dismiss by May 3, 2019; and that
 8 Defendants file their reply in support of their motion to dismiss by June 3, 2019.

9 On January 4, 2019, Lead Plaintiff filed his Amended Class Action Complaint for Violation
 10 of the Federal Securities Laws (the “Amended Complaint”) (Dkt. No. 30). On March 5, 2019,
 11 Defendants filed their Motion to Dismiss (Dkt. No. 33) and related papers (Dkt. Nos. 34 and 35).
 12 Pursuant to the Court’s Order (Dkt. No. 25), Lead Plaintiff’s opposition to the Motion to Dismiss
 13 must be filed by May 3, 2019.

14 On April 25, 2019, United States Magistrate Judge Peggy A. Leen issued an Order (Dkt.
 15 No. 39) (the “Scheduling Order”). The Scheduling Order set forth that “Pursuant to LR 26-1, the
 16 parties were required to meet and/or confer as required by Fed. R. Civ. P. 26(f) within thirty days
 17 after the first defendant answered or otherwise appeared, and fourteen days thereafter to file a
 18 mandatory stipulated discovery plan and scheduling order. To date, the parties have not
 19 complied.” Scheduling Order, Dkt. No. 39, p. 1. The Scheduling Order set forth various discovery
 20 deadlines to govern this matter, including a requirement that the parties meet and confer no later
 21 than May 9, 2019 and complete discovery by September 2, 2019.

22 This matter is a securities fraud case subject to the Private Securities Litigation Reform Act
 23 of 1995 (“PSLRA”). The PSLRA requires that “all discovery and other proceedings shall be
 24 stayed during the pendency of any motion to dismiss, unless the court finds, upon the motion of
 25 any party, that particularized discovery is necessary to preserve evidence or to prevent undue
 26 prejudice to that party.” 15 U.S.C. § 78u-4(b)(3)(B) (emphasis added). “[T]he Ninth Circuit has
 27 interpreted the automatic stay on all discovery under the PSLRA as applying not only when a
 28 motion to dismiss is pending, but from the filing of the case until such time that ‘the court has

1 sustained the legal sufficiency of the complaint.”” *In re Am. Funds Sec. Litig.*, 493 F. Supp. 2d
 2 1103, 1105 (C.D. Cal. 2007) (citing *SG Cowen Securities Corp. v. U.S. Dist. Court*, 189 F.3d 909,
 3 911 (9th Cir. 1999)).

4 In the present matter, there is no dispute that the PSLRA governs. Defendants filed their
 5 Motion to Dismiss on March 5, 2019 (Dkt. No. 33). Therefore, all discovery in this matter has
 6 been automatically stayed pursuant to the PSLRA, including any requirements set forth in Fed. R.
 7 Civ. P. 26 and/or Local Rule 26-1. Lead Plaintiff has not moved to lift the stay of discovery.
 8 Therefore, the automatic stay remains in effect.

9 FOR THE REASONS SET FORTH ABOVE, THE PARTIES HEREBY STIPULATE AS
 10 FOLLOWS:

11 WHEREAS, this matter is subject to the provisions of the PSLRA;

12 WHEREAS, Defendants have filed their Motion to Dismiss, which remains pending;

13 WHEREAS, the Court entered the Scheduling Order on April 25, 2019 (Dkt. No. 39),
 14 setting forth a discovery plan and scheduling order dates that *inter alia* shall apply to discovery in
 15 this matter;

16 WHEREAS, the discovery contemplated in the Scheduling Order is subject to the automatic
 17 stay provision of the PSLRA;

18 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Lead Plaintiff
 19 and Defendants, through their undersigned counsel of record and subject to the approval of the
 20 Court, as follows:

21 1. The Scheduling Order (Dkt. No. 39) is stayed.

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 23 **IT IS SO STIPULATED.**

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11 *Attorneys for Lead Plaintiff Richard Ina, as
Trustee for the Ina Family Trust and Lead
Counsel for the Class*

12
13 **PURSUANT TO THE PARTIES' STIPULATION, IT IS HEREBY ORDERED**
14 **THAT:**

15 1. The Scheduling Order (Dkt. No. 39) is stayed.
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17 **IT IS SO ORDERED.**

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19 DATED: May 2, 2019

 (signed)

20 Brenda Weksler (printed)
21 UNITED STATES (DISTRICT/MAGISTRATE) JUDGE
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 30th day of April, 2019, a true and correct copy of the foregoing
3 STIPULATION AND [PROPOSED] ORDER VACATING SCHEDULING ORDER was served
4 via the United States District Court CM/ECF system on all parties or persons requiring notice, and
5 having access to the electronic filing system referenced.

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8 Lori Gilmore, an Employee of
9 PROCOPIO CORY HARGREAVES
10 & SAVITCH LLP

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